

Remarks

In response to the restriction requirement, Applicant affirms the election of claims 1-19 for prosecution. The non-elected claims are withdrawn subject to possible continued prosecution, such as in a divisional application.

At page 1 the government rights statement has been amended for clarification purposes.

Claim Objection and §112 Rejections

The objection to claim 4 has now been obviated by adding the word "from" between "selected" and "the group" as helpfully suggested by the Examiner.

Claim 7 has been amended to depend from claim 6 which does have the antecedent burning step.

Claim 8 has been amended to define that process is for converting "a certain portion of a first fuel" into heat and "an other portion of the first fuel" into the second fuel. Further, the amendments provide that it is the "certain portion" which is fractionated into the light fractionate and that the "other portion" is fractionated into the heavy fractionate. The claim has further been amended to clarify that it is the heavy fractionate which is for use as the second fuel.

A corresponding amendment has been made to claim 9 clarifying that it is the first fuel which is directed in heat exchange relationship with the heavy fractionate.

Another corresponding amendment has been made to claim 14 which clarifies that the reformatte from the light fractionate is for use as a third fuel.

Claim 19 has correspondingly been amended to define that it is the second fuel that is being wicked.

The amendments to claims 5 and 16 correct obvious typographical errors.

These amendments to the claims, it is submitted, correct the 35 USC §112 matters noted in the office action.. Such amendments correct only clerical errors and do not introduce new matter.

Prior Art Rejections

Claims 1-4, 8, 10-15, 17 and 18 were rejected under §102(a) as anticipated by Shaaban. Claims 5-7, 9, 16 and 19 were rejected under §103 as unpatentable over Shaaban.

Applicant is submitting herewith a Declaration Of Inventors Under 37 CFR §1.131 ("Rule 131 Declaration") for swearing behind and thereby removing Shaaban as a reference. The declaration establishes the invention of the subject matter of all rejected claims prior to the effective date of the reference. The earliest effective date of Shaaban is the July 10, 2002 filing date of provision application S/N 60/394,661.

The two exceptions under §1.131(a)(1) and (2) do not apply here because:

(1) under subpart (a)(1) none of applicant's method claims 1-19 contain a desulfurization step which outputs desulfurized gas in combination with a reforming step which converts that desulfurized gas to a hydrogen-rich stream, all as specified in Shaaban's first independent apparatus claim 1, and therefore in its dependent claims 2-13.¹ Likewise, Shaaban's second independent apparatus claim 14, and therefore its dependent claims 15-20, require a desulfurization assembly in combination with a steam reforming assembly which converts the desulfurized gas exiting from the desulfurization assembly into a hydrogen-rich stream.

Similarly, Shaaban's first independent method claim 21, and therefore its dependent claims 22-25, have the steps of removing hydrogen sulfide through high-temperature adsorption and then converting the desulfurized gas into a hydrogen-rich stream. This combination of steps is not a part of any of applicant's claims 1-19.

¹ While applicant's claims 3, 11 and 13 do provide for desulfurizing, none are in combination with Shaaban's step of "reforming" (Shaaban's claims 1-20) or "converting" (Shaaban's claims 21-25) the desulfurized gas.

Therefore applicants and Shaaban are not claiming the same patentable invention as defined in 35 USC §41.203; and

(2) under subpart (a)(2) Shaaban is not a statutory bar because applicant's provisional application priority is March 4, 2003, which is less than one year from Shaaban's July 10, 2002 priority date.

The showing of facts in the Rule 131 Declaration establishes the conception by the coinventors, Drs. Namazian and Kelly, of the inventions of all claims 1-19 prior to the critical date of July 10, 2002. The Rule 131 Declaration further establishes that those coinventors reduced the inventions of all claims 1-19 to practice by operating apparatus which carried out every step of the claimed processes prior to July 10, 2002, and further that the inventors sufficiently tested the processes of all claims 1-19 to demonstrate that the same would work for their intended purposes. (MPEP §2138.05). See ¶¶5 and 6 of the Declaration.

The evidence presented thus establishes the requisite actual reduction to practice of the inventions of all claims 1-19 prior to the effective date of the Shaaban patent. As a result, under Rule 131 applicants are to be considered the prior inventions and are entitled to a patent for the inventions of claims 1-19. This is because the Shaaban disclosure cannot be considered to have been "known or used by others" prior to applicant's inventions (35 USC §102(a)).

According, the entry of the present amendments and allowance of claims 1-19 are considered to be in order and such action is solicited.

Should the Examiner have any questions, a telephone call to Applicant's attorney at 561-333-6591 is invited.

Respectfully submitted,

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